



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 28 2006

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lance Erlick
Chief Financial Officer
Godfrey Marine
P.O. Box 1158
Elkhart, IN 46515

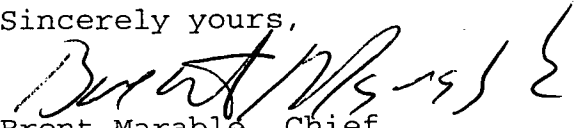
Dear Mr. Erlick:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Godfrey Conveyor Company, Inc. (Godfrey), Godfrey Marine-Syracuse, CAA Docket No. CAA-05-2006-0035. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 28 2006.

Pursuant to paragraph 38 of the CAFO, Godfrey must pay the \$45,853 civil penalty within 30 days of the date the CAFO was filed, SEP 28 2006. The check must display the case docket number, CAA-05-2006-0035, and the billing document number, 2750603A012.

Please direct any questions regarding this case to Richard Clarizio, Associate Regional Counsel, 312-886-0559.

Sincerely yours,


Brent Marable, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

Cc: David McIver, Chief
Office of Enforcement Air Section
Indiana Department of Environmental Management

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5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Godfrey admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Godfrey waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. The Administrator of U.S. EPA (the Administrator) may promulgate regulations establishing National Emission Standards for Hazardous Air Pollutants (NESHAP) under Section 112 of the CAA, 42 U.S.C. § 7412.

10. Under Section 112 of the CAA, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing at 40 C.F.R §§ 63.5680 et seq. (Boat Manufacturing NESHAP or Subpart VVVV).

11. The NESHAP for Boat Manufacturing states at 40 C.F.R § 63.5683(a) that the provisions of the subpart apply to boat manufacturing facilities that build fiberglass boats or aluminum recreational boats and are a major source of hazardous air pollutants (HAP) either in and of themselves, or because they

are collocated with other sources of HAP, such that all sources combined constitute a major source.

12. 40 C.F.R § 63.5683(b) defines a boat manufacturing facility as a facility that manufactures hulls or decks of boats from fiberglass or aluminum, or assembles boats from premanufactured hulls and decks, or builds molds to make fiberglass hulls or decks.

13. 40 C.F.R § 63.5683(c) defines a major source as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or can potentially emit, considering controls, in the aggregate, 9.1 megagrams (10 tons) or more per year of a single HAP or 22.7 megagrams (25 tons) or more per year of a combination of HAP.

14. To demonstrate compliance with the emission limits for aluminum wipedown solvents and aluminum coatings as specified in 40 C.F.R § 63.5743(a), the organic HAP content (kilograms of organic HAP per kilogram of material, or weight fraction) of each aluminum wipedown solvent and aluminum coating (including primers, topcoats, clear coats, thinners, and activators) must be determined and recorded, according to 40 C.F.R § 63.5746(a).

15. The Boat Manufacturing NESHAP, at 40 C.F.R § 63.5743, requires that an affected boat manufacturing facility utilizing aluminum recreational boat surface coating operations must comply with either the separate emission limits in paragraphs (a) and (b) below or the combined emission limit in paragraph (c) below. Compliance with these limitations is based on a 12-month rolling average that is calculated at the end of every month.

a. Emissions from aluminum wipedown solvents must be limited

to no more than 0.33 kilograms of organic HAP per liter of total coating solids applied from aluminum primers, clear coats, and top coats combined; and

- b. Emissions from aluminum recreational boat surface coatings (including thinners, activators, primers, topcoats, and clear coats) must be limited to no more than 1.22 kilograms of organic HAP per liter of total coating solids applied from aluminum primers, clear coats, and top coats combined; or
- c. Emissions from the combined aluminum surface coatings and aluminum wipedown solvents must be limited to no more than 1.55 kilograms of organic HAP per liter of total coating solids applied from aluminum primers, clear coats, and top coats combined.

16. By reference of Table 1 of Subpart VVVV, 40 C.F.R § 63.5695 states that an existing source that is a major source on or before August 22, 2001 must comply with Subpart VVVV on August 23, 2004.

17. 40 C.F.R § 63.5764(b)(1) states that for a source not controlled by an add-on control device (i.e., one that is complying with organic HAP content limits, application equipment requirements, or MACT model point value averaging provisions), the first compliance report must cover the period beginning 12 months after the compliance date specified for the source in 40 C.F.R. § 63.5695 and ending on June 30 or December 31, whichever date is the first date following the end of the first 12-month period after the compliance date that is specified for the source in 40 C.F.R. § 63.5695.

18. 40 C.F.R § 63.5764(b)(2) states that a source is required to submit their first compliance report postmarked or delivered no later than 60 calendar days after the end of the compliance reporting period specified in paragraph 40 C.F.R § 63.5764(b)(1).

Factual Allegations

19. Godfrey owns and operates a stationary aluminum boat manufacturing plant at 300 E. Chicago Street, Syracuse, IN.

20. The Godfrey facility has the following emission units and control devices:

- a. Seven (7) air atomization paint spray booths, identified as Paint Booth #1 - 7, each with a maximum capacity of 7.97 gallons of coating material per hour, using air filters as paint booth overspray control, and exhausting to stacks S31, S50, S32, S33, S35, S51 and S52, respectively; and
- b. One (1) adhesive application area, for carpet installation, consisting of nine (9) glue guns, identified as Glue Guns #1 - #9, with a maximum capacity of applying 14.04 gallons of adhesive per hour per glue gun.

21. Godfrey was issued a Title V permit for its facility on October 5, 1998 by the Indiana Department of Environmental Management (IDEM) stating in Section A.4 that it was a major source as defined by Section 112 of the CAA.

22. Godfrey was issued a renewed Title V permit for its facility on May 5, 2004 by IDEM.

23. Godfrey's plant is subject to the requirements of 40 C.F.R § 63.5743 because it is a boat manufacturing facility that builds aluminum recreational boats and is a major source of HAP.

24. 40 C.F.R. § 63.5764(b)(1) states that a source without an add-on pollution control device must submit their first compliance report covering the period beginning 12 months after the compliance date specified for the source in 40 C.F.R § 63.5695 and ending on June 30 or December 31, whichever date is the first date following the end of the first 12-month period after the compliance date that is specified for the source in 40 C.F.R § 63.5695.

25. Godfrey was required to have for its facility their first compliance report postmarked or delivered to U.S. EPA 60 days after December 31, 2005, or by March 1, 2006, in accordance with 40 C.F.R § 63.5764(b)(2).

26. Godfrey's facility was an existing major source on or before August 22, 2001, therefore 40 C.F.R § 63.5695 requires that Godfrey comply with Subpart VVVV on August 23, 2004 for its facility.

27. Godfrey submitted for its facility a report they titled "First Compliance Report" to U.S. EPA in September 2005 to satisfy the reporting requirements of 40 C.F.R §§ 63.9 and 63.5764. Godfrey chose to adhere to 40 C.F.R § 63.5743(a)(3), limiting the combined emissions of aluminum surface coatings and aluminum wipedown solvents, instead of 40 C.F.R § 63.5743(a)(1) and (2), limiting emissions separately for aluminum wipedown solvents and aluminum boat surface coatings. The submitted First Compliance Report spanned the 12-month period of September

2004 to August 2005. One 12-month weighted average of combined HAP content was included in the report.

28. On March 1, 2006 Godfrey submitted for its facility reports they titled "Revised First Compliance Notification" and "First Semi-Annual Compliance Report" to satisfy the reporting requirements of 40 C.F.R §§ 63.9 and 63.5764. The Revised First Compliance Notification was a resubmittal of the First Compliance Report, but with corrections made to the inaccurate data initially submitted. The First Semi-Annual Compliance Report contained emission data for aluminum surface coatings and aluminum wipedown solvents, based on what is required in 40 C.F.R § 63.5743(a)(3). This report spanned the 12-month period of January to December 2005. One 12-month weighted average of combined HAP content was included in each report.

29. In a letter accompanying the reports submitted by Godfrey to the U.S. EPA on March 1, 2006, the facility stated that they intended to use a HAPs-free wipedown solvent in their operations, but inadvertently did not use this type of solvent. Godfrey began to use a HAPs-free wipedown solvent on February 13, 2006.

Alleged Violations

30. Godfrey did not submit a first compliance report covering the period September 1, 2004 to December 31, 2005 as required by 40 C.F.R § 63.5764(b)(1).

31. Godfrey did not submit 12-month rolling averages of HAP data ending on August 31, September 30, October 31, November 30 and December 31, 2005, as required by 40 C.F.R § 63.5743(a), in their first compliance report.

32. Based on the data received by the U.S. EPA from Godfrey in the March 1, 2006 submittal, 12-month rolling averages of the combined aluminum surface coatings and aluminum wipedown solvents in units of kilograms of organic HAP per liter of total coating solids were calculated. The results are shown in Table 1 below.

33. On September 14, 2006, U.S. EPA received Godfrey's emission data for its facility covering the period from September 2005 to August 2006. The data is shown in Table 1 below.

Table 1: Godfrey HAPs Emissions

Month	Year	Weighted Average of HAP for All Surface Coatings	Weighted Average of HAP for Wipedown Solvents	Weighted Average of Combined HAP Content	12-Month Rolling Average of Combined HAP Content
September	2004	1.31	0.64	1.96	
October	2004	1.26	0.51	1.77	
November	2004	1.41	0.68	2.09	
December	2004	1.37	0.66	2.03	
January	2005	1.64	0.64	2.28	
February	2005	1.52	0.48	2.00	
March	2005	1.19	0.56	1.75	
April	2005	1.48	0.61	2.09	
May	2005	1.45	0.84	2.29	
June	2005	1.38	0.56	1.93	
July	2005	1.37	0.58	1.95	
August	2005	1.26	2.71	3.97	2.18
September	2005	1.18	0.64	1.82	2.16
October	2005	1.44	0.60	2.04	2.19
November	2005	1.13	0.76	1.89	2.17
December	2005	1.44	0.26	1.70	2.14
January	2006	1.28	0.62	1.90	2.11
February	2006	1.33	0.24	1.57	2.07
March	2006	1.32	0.00	1.32	2.04
April	2006	1.15	0.00	1.15	1.96
May	2006	0.64	0.00	0.64	1.82
June	2006	0.43	0.00	0.43	1.70
July	2006	0.33	0.00	0.33	1.56
August	2006	0.34	0.00	0.34	1.26

34. Godfrey operated in violation of the emission limit of 1.55 kilograms of organic HAP per liter of total coating solids in 40 C.F.R § 63.5743(a)(3) from September 1, 2004 to July 31, 2006.

35. On May 4, 2006 U.S. EPA issued a Finding of Violation (FOV) to Godfrey. The FOV alleges that Godfrey violated at its facility the National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing at 40 C.F.R Part 63, Subpart VVVV.

36. In the FOV issued to Godfrey on May 4, 2006, only data up to the date of December 31, 2005 was provided, so this date was cited. Since the FOV was issued, U.S. EPA received data through August 2006.

37. Godfrey demonstrated compliance with Subpart VVVV, 40 C.F.R § 63.5743(a)(3), at the conclusion of August 2006.

Civil Penalty

38. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), including Godfrey's diligent efforts to come into compliance and its cooperation with U.S. EPA, U.S. EPA and Godfrey agree to settle this action for \$45,853.

39. Godfrey must pay the \$45,853 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 60 days after the effective date of this CAFO.

40. Godfrey must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

41. A transmittal letter, stating the Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Richard Clarizio, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

42. This civil penalty is not deductible for federal tax purposes.

43. If Godfrey does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C.

§ 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

44. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Godfrey will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Godfrey will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

Final Statement

45. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

46. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

47. This CAFO does not affect Godfrey's responsibility to comply with the CAA and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 45 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

48. Godfrey certifies that it is complying fully with the NESHA for Boat Manufacturing at 40 C.F.R Part 63, Subpart VVV.

49. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Godfrey's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

50. The terms of this CAFO bind Godfrey, and its successors, and assigns.

51. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

52. Each party agrees to bear its own costs and attorneys' fees in this action.

53. This CAFO constitutes the entire agreement between the parties.

U.S. Environmental Protection Agency, Complainant

<u>9-27-06</u> Date	<u>Pamela Blakley for</u> Cheryl L. Newton, Acting Director Air and Radiation Division U.S. Environmental Protection Agency, Region 5 (A-18J)
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**Godfrey Conveyor Company, Inc.,
Godfrey Marine-Syracuse, Respondent**

<u>9-26-06</u> Date	<u>Lance Erlick</u> Lance Erlick, Chief Financial Officer Godfrey Conveyor Company, Inc. Godfrey Marine-Syracuse
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CAA-05-2006-0035

CONSENT AGREEMENT AND FINAL ORDER

Godfrey Conveyor Company, Inc.,

Godfrey Marine-Syracuse

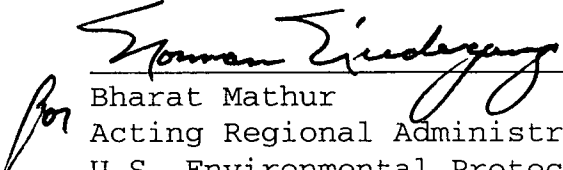
Docket No. CAA-05-2006-0035

Final Order

The foregoing Consent Agreement is hereby ratified and incorporated by reference into this Final Order pursuant to 40 C.F.R. § 22.81(b)(3). This Final Order disposes of this proceeding in accordance with 40 C.F.R. § 22.13(b), 18 and 31. Accordingly, this Final Order shall not in any case affect the right of the Agency or of the United States to pursue appropriate injunctive or other equitable relief for any violations of law other than those violations resolved by this Consent Agreement or for criminal sanctions. Respondent is hereby ordered to comply with the terms of the above Consent Agreement effective immediately upon the filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. The Respondent is hereby assessed a civil penalty of \$45,853, as provided in the Consent Agreement. IT IS SO ORDERED.

Date

9/28/06


Bharat Mathur

Acting Regional Administrator

U.S. Environmental Protection

Agency, Region 5

77 West Jackson Boulevard

Chicago, Illinois 60604-3511

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CERTIFICATE OF MAILING

I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2006-0035 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to the person designated below by placing them in the custody of the United States Postal Service addressed as follows:

Lance Erlick
Chief Financial Officer
Godfrey Marine
P.O. Box 1158
Elkhart, IN 46515

I also certify that a copy of the CAFO was sent by first-class mail to:

David McIver, Chief
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate, Room 1001
Indianapolis, Indiana 46206-6015

on the 28th day of September 2006.

Betty Williams
Betty Williams, Secretary
AECAS (IL/IN)

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